

**TOWN OF DAVIE
TOWN COUNCIL AGENDA REPORT**

TO: Mayor and Councilmembers

FROM/PHONE: David Quigley, AICP, Planning and Zoning Manager/(954) 797-1103

PREPARED BY: Lise Bazinet, Planner II

SUBJECT: Resolution

AFFECTED DISTRICT: 4

ITEM REQUEST: Schedule for Council Meeting

TITLE OF AGENDA ITEM: A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA AUTHORIZING THE MAYOR AND THE TOWN ADMINISTRATOR TO ENTER INTO AN AGREEMENT BETWEEN BROWARD COUNTY, THE TOWN OF DAVIE, AND THE DEVELOPER (LIVING WATERS ESTATES, LLC) FOR THE CONSTRUCTION OF ROAD IMPROVEMENTS RELATED TO THE LIVING WATERS ESTATES PLAT; TO ACKNOWLEDGE SUCH APPROVAL BY AFFIXING THEIR SIGNATURES TO SAID AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE. (Living Waters Estates Developer's Agreement: DA 4-1-09/14801 SW 23rd Street)

REPORT IN BRIEF: The petitioner's request is for Town Council to authorize the Mayor and Town Administrator to enter into a Regional Road Concurrency Agreement between the Town of Davie, Broward County, and the Developer. This Tri-Party Agreement is for improvements to include a bus stop pull out bay at the corner of SW 136th Avenue and State Road 84, which will serve the local Davie transit route and will mitigate traffic in the roadways impacted by the proposed development. The improvements will be constructed within an already dedicated right-of way.

PREVIOUS ACTIONS: n/a

CONCURRENCES: n/a

FISCAL IMPACT: not applicable

Has request been budgeted? n/a

RECOMMENDATION(S): Other - Staff finds the application complete and suitable for transmittal to the Town Council for further consideration.

Attachment(s): Resolution, Exhibits

RESOLUTION NO. _____

A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA AUTHORIZING THE MAYOR AND THE TOWN ADMINISTRATOR TO ENTER INTO AN AGREEMENT BETWEEN BROWARD COUNTY, THE TOWN OF DAVIE, AND THE DEVELOPER (LIVING WATERS ESTATES, LLC) FOR THE CONSTRUCTION OF ROAD IMPROVEMENTS RELATED TO THE LIVING WATERS ESTATES PLAT; TO ACKNOWLEDGE SUCH APPROVAL BY AFFIXING THEIR SIGNATURES TO SAID AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Broward County requires improvements to satisfy concurrency on the regional road network; and

WHEREAS, Broward County requires that municipalities withhold issuance of certificates of occupancy until Broward County has confirmed that improvements to satisfy traffic concurrency on the regional road network have been completed or funded.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA:

SECTION 1. The Town Council of the Town of Davie does hereby authorize the Mayor and Town Administrator to enter into an Agreement, as shown in the attached exhibits.

SECTION 2. The Town Administrator and Town Attorney are authorized to make and accept non-substantive revisions to the agreement in order for the agreement to be in final, recordable form.

SECTION 3. This Resolution shall take effect immediately upon its passage and adoption.

PASSED AND ADOPTED THIS _____ DAY OF _____, 2009

MAYOR/COUNCILMEMBER

ATTEST:

TOWN CLERK

APPROVED THIS _____ DAY OF _____, 2009.

Exhibit (Developer's Justification Letter)

Law Offices

COKER & FEINER

1404 South Andrews Avenue
Fort Lauderdale, FL 33316-1840

Telephone: (954) 761-3636
Facsimile: (954) 761-1818

Richard G. Coker, Jr., P.A.
Rod A. Feiner

March 31, 2009

Mr. David Quigley
Planning & Zoning Manager, Town of Davie
Planning & Zoning Division, Town of Davie
6591 Orange Drive
Davie, FL 33314

Re: Living Waters Estates Plat
Concurrency Agreement

Dear Mr. Quigley:

As you are aware, I represent Living Waters Estates, LLC ("Living Waters"). Recently the Town of Davie approved a plat for the property owned by Living Waters called the Living Waters Estates Plat. A condition of approval was that Living Waters resolve concurrency issues noted on the plat report. This condition was necessary because when the County prepared its TRIPS run for the Plat it showed that mitigation was needed for 1 a.m. peak hour trip and 2 p.m. peak hour trips.

After meeting with Broward County and the Town it was proposed that constructing a bus pull out bay at the corner of SW 136th Ave. and State Road 84 which would serve the local Davie Transit Route would mitigate the roadways which were minimally impacted by the Plat. The improvements will be constructed in already existing dedicated right-of-way. This was accepted by all parties.

The method by which the County ensures that such improvements are constructed by the time the trips come onto the roadway is through a Regional Road Concurrency Agreement. This Agreement requires that the improvements be constructed prior to the time that a single Certificate of Occupancy for the project is issued. In addition, to ensure that the proposed improvement is constructed the Agreement requires that the Developer post a Letter of Credit with the County for twenty five percent (25%) more than the estimated cost of improvement. This ensures that should the Developer go out of business or lose the property through foreclosure there will remain sufficient funds to construct the improvement.

Both the Developer, the Town and Broward County need to sign the Agreement and it is then recorded in the Public Records of Broward County with the Plat. The Developer and Mortgagee are in the process of signing this Agreement. Please place the Agreement on the next available Agenda for approval by the Davie Town Council so they may approve the Agreement as well.

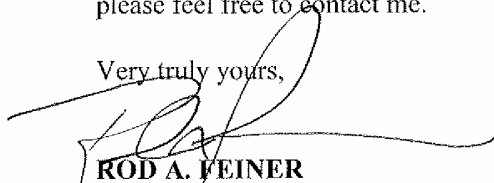
March 31, 2009

Page -2-

After approval I will interlineate the Town's signature page when I receive the original back from the Developer. Please note we cannot move forward with approval of the Plat until the Town has affixed its signature to the Agreement.

Thank you for your consideration. If you have any questions or require any further information please feel free to contact me.

Very truly yours,



ROD A. FEINER
For the Firm

RAF:tms

Enclosure

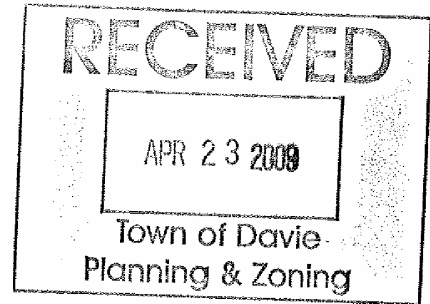
c: Martin Berger, Broward County
Living Waters Estates, LLC

Exhibit (Agreement)

Return recorded document to:

Development and Environmental Regulation Division
115 S. Andrews Avenue, A240
Fort Lauderdale, FL 33301

Document prepared by:



NOTICE: PURCHASERS, GRANTEEES, HEIRS, SUCCESSORS AND ASSIGNS OF ANY INTEREST IN THE PROPERTY SET FORTH ON EXHIBIT "A" ARE HEREBY PUT ON NOTICE OF THE OBLIGATIONS SET FORTH WITHIN THIS AGREEMENT WHICH SHALL RUN WITH THE PROPERTY UNTIL FULLY PAID AND/OR PERFORMED.

**REGIONAL ROAD CONCURRENCY AGREEMENT
CONSTRUCTION OF IMPROVEMENTS**

This is an Agreement, made and entered into by and between: BROWARD COUNTY, a political subdivision of the state of Florida, hereinafter referred to as "COUNTY,"

AND

Living Waters Estates, LLC its successors and assigns, hereinafter referred to as "DEVELOPER,"

AND

The TOWN OF DAVIE, a municipal corporation, created and existing under the laws of the State of Florida, its successors and assigns, hereinafter referred to as "TOWN."

WHEREAS, Chapter 5, Article IX, Broward County Code of Ordinances, requires that the regional transportation network be adequate to serve the reasonably projected needs of proposed developments; and

WHEREAS, Chapter 5, Article IX, Broward County Code of Ordinances, more specifically requires that an application for a development permit satisfy concurrency requirements for impact areas within Standard Concurrency Districts; and

WHEREAS, DEVELOPER has applied for approval of or an amendment to the Living Waters Estates Plat (067-MP-02), hereinafter referred to as "PLAT," more particularly described in Exhibit "A" attached hereto and made a part hereof; and

WHEREAS, on April 2, 2008, the Broward County Development and Environmental Regulation Division issued a Notification of Failure to Satisfy Broward County Concurrency Standards for the regional transportation network, finding that the application for approval of or amendment to the PLAT does not satisfy the impact area concurrency standards for the regional road network as stated in the Broward County Land Development Code ("CODE"); and

WHEREAS, DEVELOPER has conducted a study and has determined that certain remedial measures will mitigate the traffic impacts so that the PLAT or amendment to the PLAT will satisfy Broward County concurrency standards; and

WHEREAS, the Broward County Development and Environmental Regulation Division has approved these remedial measures and finds that its concurrency requirements for the PLAT or the amendment to the PLAT will be met with the execution of, and compliance with, the terms of this Agreement by DEVELOPER; NOW, THEREFORE,

IN CONSIDERATION of the mutual terms, conditions, promises, covenants, and payments hereinafter set forth, the parties agree as follows:

1. The above recitals and representations are true and correct and are incorporated herein.
2. Construction of Improvements.

PLEASE CHECK THE APPROPRIATE SECTION

☒ **IMPROVEMENTS CONSTRUCTED BY DEVELOPER**

- (a) DEVELOPER agrees to construct the improvements described in Exhibit "B" attached hereto, hereinafter referred to as the "Improvements." DEVELOPER agrees to complete the Improvements prior to receipt of the first certificate of occupancy for property within the PLAT.
- (b) If the improvements described in Exhibit "B" are on a state road, as that term is defined in Chapter 334, Florida Statutes, DEVELOPER agrees that, prior to PLAT recordation, DEVELOPER shall provide COUNTY with proof of having received a permit, or letter of intent to permit, from the State of Florida Department of Transportation for the Improvements.
- (c) DEVELOPER shall provide to COUNTY, contemporaneously with this Agreement, an irrevocable Letter of Credit, attached hereto as Exhibit "C," in the amount of \$6,144.00 in a form acceptable to the COUNTY, which represents 125% of the costs of the Improvements.

- (d) The Improvements described in Exhibit "B" shall be installed in accordance with applicable COUNTY, State of Florida Department of Transportation standards and specifications and in accordance with the Development Review Report for the PLAT. The construction plans for the Improvements, including pavement marking and signing plans, shall be submitted to COUNTY for review and approval prior to commencement of construction. Construction shall be subject to inspection and approval by the COUNTY. Pavement marking and signing shall be provided for all of the Improvements and shall be subject to review, field inspections and final approval by the Broward County Traffic Engineering Division, which Improvements shall be consistent with the previously approved plans.
- (e) Developer agrees that this agreement shall be recorded in the Official Records of Broward County, Florida, against the property described in Exhibit "A" to put subsequent purchasers, grantees, heirs, successors, and assigns of any interest in such property on notice of the obligations set forth herein, which shall run with the property until fully performed. However, the amount(s) set forth above which are secured by a letter of credit shall not constitute a lien on the property unless and until the provisions below are activated by the recording of a "Notice of Lien."
- (f) If property is located within a municipality, DEVELOPER, its successors and assigns, agree that no building permits or certificates of occupancy shall be obtained from the municipality for construction of a principal building within the Plat until such time as DEVELOPER provides the municipality with written confirmation from COUNTY that engineering plans for the required improvement have been approved by the Broward County Highway Construction and Engineering Division and that DEVELOPER has complied with paragraph 2(c).of this Agreement. Failure to comply with the above shall constitute a default of this Agreement. If the property is located within the unincorporated area, the COUNTY shall not issue building permits for construction of a principal building within the Project until such time as the DEVELOPER has complied with paragraph 2(c). of this Agreement.
- (g) If property is located within a municipality, DEVELOPER, its successors and assigns agree that no certificates of occupancy within the Plat shall be obtained prior to completion of the Improvements according to the schedule set forth in Exhibit "B." Failure to comply with the above shall constitute a default of this Agreement. If the property is located within the unincorporated area, the COUNTY shall not issue any certificates of occupancy within the Plat prior to completion of the Improvements according to the schedule set forth in Exhibit "B."

- (h) In the event DEVELOPER defaults under the terms of this Agreement or the COUNTY receives notice that the security will be canceled by the issuing institution, COUNTY shall be entitled to draw against the security for the amount set forth above, plus costs and interest as set out herein. If COUNTY draws against the security and the amount recovered is less than the amount due, COUNTY may maintain an action against DEVELOPER in a court of competent jurisdiction for the difference between any sums obtained and the amount due, plus costs and interest accrued from the due date at the rate of twelve (12) per cent per annum or, at the option of the COUNTY, the COUNTY may record a document entitled "Notice of Lien" which shall constitute a lien on the property described in Exhibit "A" in the amount stated above. To the extent that the failed security is attributable to an identified parcel or portion of the PLAT, the Notice of Lien, as set forth above, shall be recorded against and apply only to such parcel or portion of the PLAT. The above provisions shall control such lien, except that the provision regarding subordination of mortgages shall not apply. Such lien may be foreclosed or otherwise enforced by the COUNTY by action or suit in equity as for the foreclosure of a mortgage on real property.
- (i) DEVELOPER shall ensure that the security remains valid and in full force and effect until DEVELOPER's obligations are fully satisfied. Expiration of the security prior to DEVELOPER's satisfaction of such obligations, or notice to Broward County that the security will expire or be canceled prior to DEVELOPER's satisfaction of all obligations hereunder, shall constitute a default of this Agreement.
- (j) In the event the COUNTY determines that the security has been canceled or disaffirmed by the issuing institution, COUNTY may record a document entitled "Notice of Lien" which shall constitute a lien on the property described in Exhibit "A" for the outstanding balance or stated portion thereof. To the extent that the disaffirmed security is attributable to an identified parcel or portion of the PLAT, the Notice of Lien, as set forth above, shall be recorded against and apply only to such parcel or portion of the PLAT. The above provisions shall control such lien, except that the provision regarding subordination of mortgages shall not apply. If the DEVELOPER provides substitute security in a form acceptable to COUNTY, COUNTY shall release the lien.
- (k) In the event COUNTY draws on the security in accordance with the provisions of this Agreement, DEVELOPER shall be responsible for COUNTY's reasonable costs incurred in drawing against the security.
- (l) DEVELOPER agrees that any contract(s) for the Improvements shall:

- 1) Indemnify and hold harmless COUNTY, its officers and employees, from liabilities, damages, losses, and costs, including, but not limited to reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of DEVELOPER and persons employed or utilized by or under contract with the DEVELOPER in the performance of this Agreement. In the event that any action or proceeding is brought against COUNTY by reason of any such claim or demand, DEVELOPER shall, upon written notice from COUNTY, resist and defend such action or proceeding by counsel satisfactory to COUNTY. The provisions of this section shall survive the expiration or earlier termination of this Agreement.
- 2) In order to insure the indemnification obligation contained above, the DEVELOPER and/or its contractor shall, at a minimum, provide, pay for, and maintain in force at all times during the term of this Agreement (unless otherwise provided), the insurance coverages set forth below, in accordance with the terms and conditions required by this section.
- 3) Such policy or policies shall be without any deductible amount and shall be issued by United States Treasury approved companies authorized to do business in the state of Florida, and having agents upon whom service of process may be made in Broward County, Florida. Such policies shall specifically protect COUNTY and the Broward County Board of County Commissioners by naming COUNTY and the Broward County Board of County Commissioners as additional insureds.
- 4) Comprehensive General Liability Insurance. A Comprehensive General Liability Insurance Policy with minimum limits of Five Hundred Thousand Dollars (\$500,000.00) per occurrence combined single limit for Bodily Injury Liability and Property Damage Liability. Coverage must be afforded on a form no more restrictive than the latest edition of the Comprehensive General Liability Policy, without restrictive endorsements, as filed by the Insurance Services Office, and must include:

Premises and/or operations.

Independent contractors.

Products and/or completed operations for contracts.

Broad Form Contractual Coverage applicable to this specific contract, including any hold harmless and/or indemnification agreement.

Personal Injury Coverage with Employee and Contractual Exclusions removed, with minimum limits of coverage equal to those required for Bodily Injury Liability and Property Damage Liability.

Underground coverages.

- 5) Business Automobile Liability Insurance. Business Automobile Liability Insurance with minimum limits of Three Hundred Thousand Dollars (\$300,000.00) per occurrence, combined single limit for Bodily Injury Liability and Property Damage Liability. Coverage must be afforded on a form no more restrictive than the latest edition of the Business Automobile Liability Policy, without restrictive endorsements, as filed by the Insurance Services Office, and must include:

Owned vehicles.
Hired and non-owned vehicles.
Employers' non-ownership.

- 6) Workers' Compensation Insurance. Workers' Compensation insurance to apply for all employees in compliance with the "Workers' Compensation Law" of the state of Florida and all applicable federal laws. In addition, the policy(ies) must include:

Employers' Liability with a limit of One Hundred Thousand Dollars (\$100,000.00) each accident.

- 7) DEVELOPER shall furnish to the Broward County Highway Construction and Engineering Division Certificates of Insurance or endorsements evidencing the insurance coverages specified by this Article prior to beginning performance of work under this Agreement. The required Certificates of Insurance shall name the types of policies provided, refer specifically to this Agreement, and state that such insurance is as required by this Agreement.
- 8) Coverage is not to cease and is to remain in force (subject to cancellation notice) until all performance required of DEVELOPER is completed. All policies must be endorsed to provide COUNTY with at least thirty (30) days' notice of cancellation and/or restriction. If any of the insurance coverages will expire prior to the completion of the work, copies of renewal policies shall be furnished at least thirty (30) days' prior to the date of their expiration.



~~IMPROVEMENTS CONSTRUCTED BY COUNTY, CITY OR FDOT~~

- (a) ~~If the Improvements are to be constructed by the State of Florida, Department of Transportation (FDOT) or a municipality or a combination thereof, DEVELOPER agrees to pay the amount for the improvements set forth in Exhibit "B," attached hereto ("Improvements"), which amount represents DEVELOPER's proportionate share of the cost of the Improvements. DEVELOPER agrees that payment must be made to the~~

~~municipality or to FDOT (or any combination thereof) either prior to receipt of the first certificate of occupancy for property within Exhibit "A," or within thirty (30) days of receiving notice from COUNTY that payment is due, whichever date occurs first. Failure to comply with the above shall constitute a default of this Agreement.~~

- ~~(b) If the Improvements are to be constructed solely by the COUNTY, DEVELOPER agrees that payment of the amount in Exhibit "B" shall be made to COUNTY prior to PLAT recordation or recordation of an Agreement for Amendment of Notation on the PLAT. COUNTY agrees that no security shall be required by the COUNTY since payment shall be made prior to PLAT recordation or recordation of the Agreement for Amendment of Notation on the PLAT.~~
- ~~(c) If the Improvements are to be constructed by the CITY or FDOT, DEVELOPER shall provide to the municipality or FDOT, contemporaneously with this agreement, security acceptable to the municipality or FDOT.~~
3. The TOWN agrees not to issue any certificates of occupancy prior to completion of the applicable Improvements as set forth in Exhibit "B."
4. COUNTY finds that the execution of and adherence to this Agreement on the part of DEVELOPER satisfies the requirement of Chapter 5, Article IX, Broward County Code of Ordinances, that plats of land shall be designed to provide for the adequacy of the regional road network, at the adopted levels of service, concurrent with the impact of the development. Nothing in this Agreement shall be construed as constituting a waiver or an exemption from road impact fees authorized to be assessed by COUNTY to DEVELOPER under the provisions of Chapter 5, Article IX, Broward County Code of Ordinances.
5. DEVELOPER, its successors and assigns, agree that in the event of a default of this Agreement, DEVELOPER, its successors and assigns agree that no building permits, certificates of occupancy, or any other development permits shall be obtained within the boundaries of the PLAT, until such time that the COUNTY notifies the local government that the default has been resolved. If the property is located within the unincorporated area and the DEVELOPER is determined to be in default of this Agreement by the COUNTY, the COUNTY shall withhold issuance of all building permits, certificates of occupancy, or any other development permits within the boundaries of the PLAT until such time as the default has been resolved.
6. NOTICE Whenever any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving of notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the parties designate the following as the respective places for giving notice:

For the COUNTY:

Director of the Broward County Development and Environmental Regulation Division
115 South Andrews Avenue, Room A240
Fort Lauderdale, FL 33301; AND

Director of the Broward County Highway Construction
and Engineering Division
1 North University Drive, Suite 300B
Plantation, FL 33324

For the TOWN:

Town of Davie
6591 Dange Dr
Davie, FL 33314

For the DEVELOPER:

Living Water Services, LLC
1700 Park Lane South, Suite 3
Jupiter, FL 33458

7. RECORDATION. This Agreement shall be recorded in the Public Records of Broward County, Florida, at the DEVELOPER's expense. The benefits and obligations contained in this Agreement shall inure to grantees, successors, heirs, and assigns who have an interest in the PLAT.
8. VENUE; CHOICE OF LAW. Any controversies or legal issues arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State Courts of the Seventeenth Judicial Circuit of Broward County, Florida, the venue situs, and shall be governed by the laws of the state of Florida.
9. CHANGES TO FORM AGREEMENT. DEVELOPER represents and warrants that there have been no amendments or revisions whatsoever to the form Agreement without the prior written consent of the County Attorney's Office. Any unapproved changes shall be deemed a default of this Agreement and of no legal effect.

10. CAPTIONS AND PARAGRAPH HEADINGS. Captions and paragraph headings contained in this Agreement are for convenience and reference only and in no way define, describe, extend, or limit the scope or intent of this Agreement, nor the intent of any provisions hereof.
11. NO WAIVER. No waiver of any provision of this Agreement shall be effective unless it is in writing, signed by the party against whom it is asserted, and any such written waiver shall only be applicable to the specific instance to which it relates and shall not be deemed to be a continuing or future waiver.
12. EXHIBITS. All Exhibits attached hereto contain additional terms of this Agreement and are incorporated herein by reference. Typewritten or handwritten provisions inserted in this Agreement or attached hereto shall control all printed provisions in conflict therewith.
13. FURTHER ASSURANCES. The parties hereby agree to execute, acknowledge and deliver and cause to be done, executed, acknowledged and delivered all further assurances and to perform such acts as shall reasonably be requested of them in order to carry out this Agreement.
14. ASSIGNMENT AND ASSUMPTION. DEVELOPER may assign all or any portion of its obligations pursuant to this Agreement to a grantee of the fee title to all or any portion of the property described in Exhibit "A." DEVELOPER agrees that any assignment shall contain a provision which clearly states that such assignment is subject to the obligations of this Agreement and recorded in the public records of Broward County, Florida.
15. AMENDMENTS. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by the parties to this Agreement.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature: BROWARD COUNTY through its BOARD OF COUNTY COMMISSIONERS, signing by and through its Mayor or Vice Mayor, authorized to execute same by Board action on the _____ day of _____, 2007, TOWN of DAVIE, signing by and through its Mayor and Town Manager, duly authorized to execute same, and DEVELOPER, signing by and through its M. Menden duly authorized to execute same.

COUNTY

ATTEST:

BROWARD COUNTY, through its
BOARD OF COUNTY COMMISSIONERS

County Administrator, as
Ex-Officio Clerk of the
Board of County Commissioners
of Broward County, Florida

By _____ Mayor
____ day of _____, 2007

Approved as to form by
Office of County Attorney
Broward County, Florida
Governmental Center, Suite 423
115 South Andrews Avenue
Fort Lauderdale, Florida 33301
Telephone: (954) 357-7600
Telecopier: (954) 357-6968

By _____
Assistant County Attorney

____ day of _____, 2007

TOWN

WITNESSES:

ATTEST:

Town Clerk

TOWN of DAVIE

By _____
Mayor
____ day of _____, 2009

By _____
Town Manager
____ day of _____, 2009

APPROVED AS TO FORM:

By _____
Town Attorney

DEVELOPER-CORPORATION/PARTNERSHIP

Witnesses (if partnership):

[Signature]

(Signature)

Print name: Nicholas Amaro

[Signature]

(Signature)

Print name: Lisa J. Amaro

LIVING WATERS ESTATES, LLC
Name of Developer (corporation/partnership)

By [Signature]

(Signature)

Print name: James D. Evans

Title: Manager

Address: 780 Park Lane South, Suite 3
Jupiter, FL 33458

____ day of _____, 20____

ATTEST (if corporation):

(Secretary Signature)

Print Name of Secretary: _____

(CORPORATE SEAL)

ACKNOWLEDGMENT - CORPORATION/PARTNERSHIP

STATE OF FLORIDA)
COUNTY OF Duval County) SS.

The foregoing instrument was acknowledged before me this 16 day of April, 2009, by James D. Evans, as Manager of Living Waters Estates, LLC, a Florida corporation/partnership, on behalf of the corporation/ partnership. He or she is:

☒ personally known to me, or

☐ produced identification. Type of identification produced _____

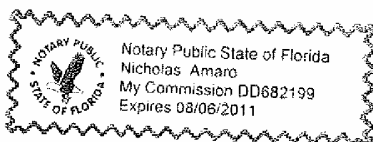
(Seal)

My commission expires:

NOTARY PUBLIC

[Signature]

Print name:



MORTGAGEE-CORPORATION/PARTNERSHIP

Mortgagee, being the holder of a mortgage relating to the parcel(s) described in Exhibit "A" hereby consents and joins in for the purpose of agreeing that its mortgage shall be subordinated to the foregoing Agreement.

Witnesses (if partnership):

Nicholas Amaro
(Signature)
Print name: Nicholas Amaro

Lisa J. Amaro
(Signature)
Print name: Lisa J. Amaro

Evans Financial Services, Ltd
Name of Mortgagee (corporation/partnership)

By James D. Evans
(Signature)

Print name: James D. Evans

Title: President

Address: 1700 Park Lane S., Suite 3
Fort Lauderdale, FL 33458

16 day of April, 2009

ATTEST (if corporation):

(CORPORATE SEAL)

(Secretary Signature)

Print Name of Secretary: _____

ACKNOWLEDGMENT - CORPORATION/PARTNERSHIP

STATE OF Florida)
) SS.
COUNTY OF Palm Beach)

The foregoing instrument was acknowledged before me this 16th day of April, 2009, by James D. Evans, as President of EFS Investments, Inc., a Florida corporation/partnership, on behalf of the corporation/partnership. He or she is:

☒ personally known to me, or

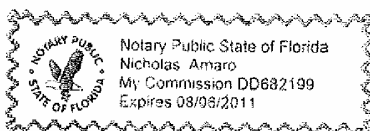
☐ produced identification. Type of identification produced _____

(Seal)

My commission expires:

NOTARY PUBLIC

Print name: _____



* EFS Investments, Inc. is the general partner of
Evans Financial Services, Ltd., a Florida limited partnership

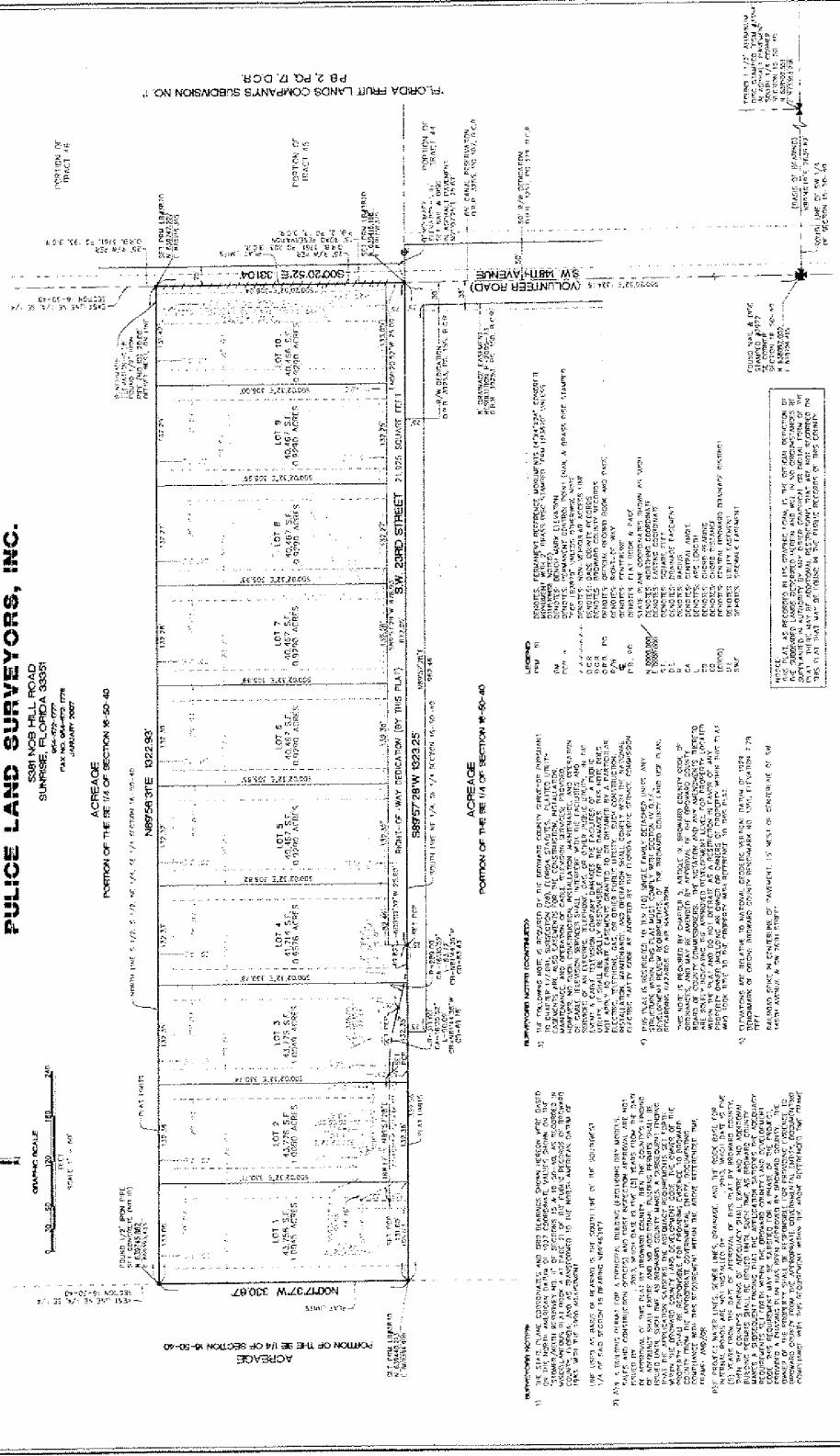
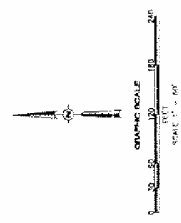
EXHIBIT "B"

IMPROVEMENTS & COST OF IMPROVEMENTS

Prior to receipt of a Certificate of Occupancy for development within the PLAT, DEVELOPER shall construct the following improvements at the existing southbound right turn lane on SW 136 Avenue, south of SR 84, converting it into a combination bus bay / right turn lane to serve a Davie Community Bus route:

1. Lengthen the storage of the existing southbound right turn lane on SW 136 Avenue south of SR 84, by 30 feet. The combination bus bay / right turn lane shall have at least 145 feet of storage and 60 feet of transition.
2. Provide an 8-foot wide x 30-foot long expanded sidewalk for the bus landing pad with a maximum 2% slope (design must extend to the face of curb and gutter) on SW 136 Avenue commencing 10 feet south of the end of the turn lane transition and continuing south for 30 feet.
3. Provide a 5-foot wide connector to the existing sidewalk and transitions on the existing sidewalk. (Max 5% running slope and max 2% cross slope.)

"LIVING WATERS ESTATES"
THE SOUTH 1/2 OF THE SOUTH 1/2 OF THE NE 1/4 OF THE SE 1/4 OF
SECTION 16, TOWNSHIP 50 SOUTH, RANGE 40 EAST
TOWN OF DAVE-BROWARD COUNTY-FLORIDA
PREPARED BY
PULICE LAND SURVEYORS, INC.
3381 NOB HILL ROAD
SUNRISE, FLORIDA 33351
FAX NO. 954-493-0778
JANUARY 2007

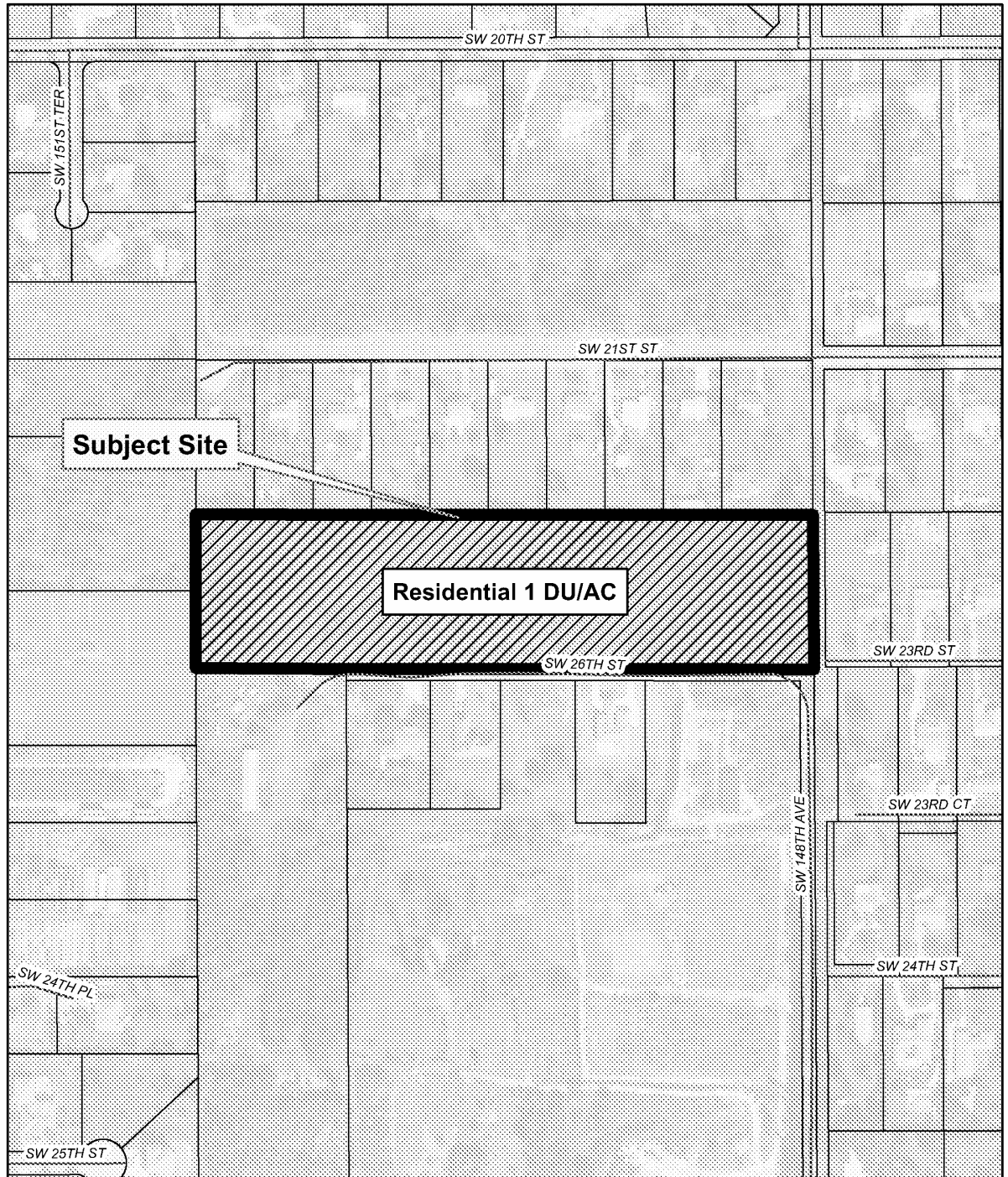


FLORIDA FRUIT LANDS COMPANY'S SUBDIVISION NO. 11
P. 2, P. 4, P. 7, D.C.R.

NOTES:
1. THE SOUTH 1/2 OF THE SOUTH 1/2 OF THE NE 1/4 OF THE SE 1/4 OF SECTION 16, TOWNSHIP 50 SOUTH, RANGE 40 EAST, TOWN OF DAVE-BROWARD COUNTY, FLORIDA, IS THE SUBJECT OF THE SURVEY.
2. THE SURVEY WAS MADE BY THE SURVEYOR IN ACCORDANCE WITH THE FLORIDA SURVEYING ACT.
3. THE SURVEY WAS MADE BY THE SURVEYOR IN ACCORDANCE WITH THE FLORIDA SURVEYING ACT.
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Date Flown:
1/2/2009



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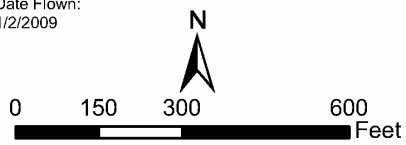
Prepared by the Town of Davie GIS Division

Developer's Agreement
DA 4-1-09
Future Land Use Map

Prepared by: ID
Date Prepared: 4/30/09



Date Flown:
1/2/2009



Prepared by the Town of Davie GIS Division

Developer's Agreement DA 4-1-09 Zoning and Aerial Map

Prepared by: ID
Date Prepared: 4/30/09